

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the amendments set forth above and the below remarks.

Claims 1-23 are pending: claims 12-14 are allowed, claims 5, 6, 10, 15 and 16 are objected to, and claims 1-4, 7-9, and 17-23 are rejected.

Claim 5, to which the Examiner objected, is rewritten in independent form.

The Claim Objections

Applicant herein amends claim to depend claim 1 and claim 22 is amended to depend from claim 21.

The Prior Art Rejections

Claims 1-4, 7-9, 11, and 17-23 are rejected under 35 U.S.C. §102 over U.S. Patent No. 5,338,306 to Srivatsa.

Claim 1 is amended to clarify that the needle extends *downwardly* from the *housing* in the use position. As described in Applicant's specification, a bottom surface of the device can rest on a patient while the needle is disposed beneath the skin. Applicant submits that Srivatsa cannot be reasonably construed to teach a downwardly extending needle.

Notwithstanding the above, Applicant submits that the claimed device requires a structure that is distinguishable over Srivatsa. As stated in Applicant's disclosure, in the use position (e.g., FIG. 6) the needle extends from the device to enable the needle to be beneath a patient's skin. In the non-use position (e.g., FIG. 8B), the needle is enveloped in the housing. This is the opposite of what is taught by Srivatsa.

The Examiner, if understood correctly, assigns a non-use position to FIG. 3 of Srivatsa and a use position to FIG. 4. As shown and described in Srivatsa, the needle tip 22 extends from the cannula 30 in FIG. 3 and does not extend from the cannula 30 in FIG.4.

Further, Srivatsa teaches that once the cannula 30 is pushed into the blood vessel the device and needle are withdrawn. The used, blood-covered needle protrudes from the device, now without the cannula. In contrast, the invention as claimed requires a non-extending needle in the non-use position.

In view of the above, Applicant submits that claim 1 is patentably distinguishable over Srivatsa. For at least the same reasons, Applicant submits that claims depending from claim 1 are also distinguishable.

Claim 17 is amended to clarify that *compressive* axial pressure at the first end of the longitudinal member in the use position forces the first and second housing portions to pivot and extend from the first housing portion and envelop the needle.

In contrast, Srivatsa teaches a device in which “spring-loaded telescopic elements 14 immediately push the cannula forwardly over the tip of the needle and into the blood vessel, as indicated by the arrows in FIG. 4.” Notwithstanding other features distinguishing the claimed invention, Srivatsa does not teach applying compressive axial pressure to envelop the needle, as claimed.

Accordingly, Applicant submits that claim 17, and claims depending from claim 17, are patentably distinguishable over Srivatsa.

With regard to claim 21, this claim requires that first and second housing portions “extend at a pivot point to envelop a needle of the device as the device transitions to the non-use position.” Applicant submits that Srivatsa does not teach anything remotely resembling the claimed pivoting housing portions enveloping a needle. The only feature taught in Srivatsa that

covers the needle is the cannula, which cannot reasonably construed to "envelop a needle as the device transitions to the non-use position."

Accordingly, Applicant submits that claim 21, and claims depending from claim 21, are patentably distinguishable over Srivatsa.

In view of the above, Applicant submits that claims 1-23 are in condition for allowance. Accordingly, a notice of allowance for these claims is respectfully requested.

The Examiner is respectfully invited to telephone the undersigning attorney if there are any questions regarding this Amendment or this application.

Applicant does not acquiesce to any assertion made by the Examiner that is not specifically addressed herein.

The Assistant Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845.

Respectfully submitted,

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